

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff,

V.

**TEXAS INSTRUMENTS
INCORPORATED,**

Defendant.

Civil Action No. 6:12-CV-499-LED

JURY TRIAL DEMANDED

**PLAINTIFF’S REPLY IN RESPONSE TO DEFENDANT
TEXAS INSTRUMENTS INCORPORATED’S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of Defendant Texas Instruments Incorporated (“TI” or “Defendant”) (Dkt. No. 12) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

PARTIES

66. The allegations in Paragraph 66 are admitted, upon information and belief.
67. The allegations in Paragraph 67 are admitted.

JURISDICTION AND VENUE

68. Plaintiff admits that this Court has subject matter jurisdiction over Defendant's Declaratory Judgment claims. Plaintiff also admits that there is an actual controversy. Except as stated, the allegations in Paragraph 68 are denied.
69. Plaintiff admits that it is subject to personal jurisdiction in this Court.
70. Plaintiff admits that venue is proper in this District.

**FIRST COUNTERCLAIM
(DECLARATORY JUDGMENT OF NON-INFRINGEMENT)**

71. The allegations in Paragraph 71 are denied.
72. Plaintiff admits there is an actual controversy.

73. The allegations in Paragraph 73 are denied.

74. Plaintiff admits that Defendant seeks a declaration of non-infringement concerning the patents-in-suit. Plaintiff denies, however, that Defendant is entitled to such relief and specifically denies that Defendant is factually or legally entitled to a declaration of non-infringement. Plaintiff denies the remaining allegations in Paragraph 74.

75. The allegations in Paragraph 75 are denied.

**SECOND COUNTERCLAIM
(DECLARATORY JUDGMENT OF INVALIDITY)**

76. The allegations in Paragraph 76 are denied.

77. Plaintiff admits there is an actual controversy.

78. The allegations in Paragraph 78 are denied.

79. Plaintiff admits that Defendant seeks a declaration of invalidity concerning the patents-in-suit. Plaintiff denies, however, that Defendant is entitled to such relief and specifically denies that Defendant is factually or legally entitled to a declaration of invalidity. Plaintiff denies the remaining allegations in Paragraph 79.

80. The allegations in Paragraph 80 are denied.

81. Plaintiff admits that Defendant purports to reserve the right to amend its Answer and/or Counterclaims in the future, but Plaintiff denies that there is a factual or legal basis to do so. Except as stated, Plaintiff denies the allegations in Paragraph 81.

PRAYER FOR RELIEF

Although no answer is required to Defendant's request for relief, Plaintiff denies all allegations in Paragraphs 82 through 87 and further denies that the requested relief should be granted to Defendant.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for Plaintiffs as the Court may deem just and proper.

Dated: September 27, 2012

Respectfully submitted,

/s/ Randall T. Garteiser
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Counsel for Blue Spike, LLC

CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser
Randall T. Garteiser